

GEORGIA BOARD OF CHIROPRACTIC EXAMINERS  
 CONFERENCE CALL BOARD MEETING  
 APRIL 12, 2012  
 PROFESSIONAL LICENSING BOARDS DIVISION  
 237 COLISEUM DRIVE,  
 MACON, GA 31217  
 8:00 A.M.

The following Board members were present:	Others Present:
Karen Mathiak D.C. Chris Nelson, D.C. David Wren, D.C.	Amy Morelli, Board Attorney Eric Lacefield, Executive Director Morgan Bennett, License Analyst Carol White, Board Secretary

**Open Session**

**Dr. Mathiak established** that a quorum was present and the meeting that was scheduled to begin at 8:00 a.m., was called to order at 8:13 a.m.

**Request from Sam Sparlin, D.C. re: Peer Review agent** – Dr. Wren Made a motion to deny. Dr. Nelson seconded the motion and it carried unanimously.

**Discussion of Metamatrix-** - Dr. Wren made a motion to respond with the unofficial Opinion from the Attorney General's office. Dr. Nelson seconded the motion and it carried unanimously. Dr. Mathiak asked for copies of the unofficial opinion to be sent to the GCA association and to Dr. Mark Ellis. Ms. Morelli, Attorney General provided the Board with an Unofficial Opinion from June 6, 2006. The unofficial Opinion is attached as follows:

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF  
 GEORGIA

U2006-1

*2006 Ga. AG LEXIS 2; 2006 Op. Atty Gen. Ga. 1*

June 6, 2006

**TYPE: UNOFFICIAL OPINION**

**SYLLABUS:**

[\*1]

Pursuant to *O.C.G.A. § 43-9-12.1*, a chiropractor, duly licensed and properly practicing in the state of Georgia, can refer a patient for X-rays or magnetic resonance imaging if the referral is needed to determine appropriate chiropractic care or for treatment for or evaluation of conditions

which are outside the scope of practice of the chiropractor, assuming the referral is otherwise prudent and proper. This opinion supersedes *1993 Op. Att'y Gen. 93-11*.

**REQUEST BY:**

Senator, District 26

**OPINION BY:**

Ajay Gohil, Assistant Attorney General

**OPINION:**

You have asked whether a chiropractor, duly licensed and properly practicing in the state of Georgia, can refer a patient for X-rays or magnetic resonance imaging (MRI) if such a referral is otherwise prudent and proper. In *1993 Op. Att'y Gen. 93-11*, prior to the enactment of *O.C.G.A. § 43-9-12.1*, this office concluded that referring patients for MRI was not within the scope of the practice of chiropractic in the state of Georgia. This conclusion was based on the fact that chiropractic involves the making of adjustments, and that [\*2] "MRI is a diagnostic tool rather than a therapeutic one, and, therefore, is not utilized to make . . . adjustment[s]." n1 To the extent that *1993 Op. Att'y Gen. 93-11* concludes that MRI referral is outside the scope of practice of chiropractic, it has been superseded by *O.C.G.A. § 43-9-12.1*, which makes referral necessary when appropriate in the determination of chiropractic care.

n1 Although the opinion did not address the question whether a chiropractor could refer for X-rays, it did note that state law included within the definition of "Chiropractic" "the use of electric X-ray photography, provided that the X-ray shall not be used for therapeutical purposes." *1993 Op. Att'y Gen. 93-11 at 30* (emphasis added). Even before the 1997 amendment, chiropractors were authorized under state law to X-ray patients. A fortiori, and for reasons set forth in this opinion, referral for X-rays would also be permitted under appropriate circumstances.

[\*3]

In 1997, after the issuance of *1993 Op. Att'y Gen. 93-11*, *O.C.G.A. § 43-9-12.1* was enacted. It provides:

The doctor of chiropractic must bring to the exercise of that person's profession a reasonable degree of care and skill, which shall include the determination of the need for chiropractic care, as defined in paragraph (2) of *Code Section 43-9-1*, and shall render treatment, *referral* to the appropriate health care provider, or both treatment and *referral* commensurate with that chiropractor's findings. Any failure to *refer* to the appropriate health care provider may subject the doctor of chiropractic to the provisions of *Code Section 43-9-12*. Nothing in this Code section shall be deemed to expand or limit the chiropractic scope of practice.

*O.C.G.A. § 43-9-12.1* (2005) (emphasis added).

This provision requires chiropractors to refer when appropriate. It establishes a standard of care, and includes making referrals as part of the reasonable standard of care. Referral is [\*4] not mentioned elsewhere in the law; however, it is addressed by rule by the Board of Chiropractic Examiners (hereinafter "Board"), which provides that "[t]he doctor of chiropractic has the responsibility as a primary health care provider to examine, establish a diagnosis/clinical impression, render treatment and/or referral, commensurate with his/her findings." GA. COMP. R. & REGS. 100 10 .01 (2002). This language emphasizes that a chiropractor has a responsibility to render a referral in appropriate cases.

A patient may be referred for two distinct purposes. The referral may be for *treatment* for or *evaluation* of conditions which are outside the scope of practice of the chiropractor but within the scope of practice of another licensed health care provider. A second purpose of referral is for *diagnostic procedures* outside the referring provider's scope of practice in terms of knowledge, expertise, instrumentation, or technology to determine the need for or appropriateness of further care that is within the referring provider's, i.e., chiropractor's, scope of practice. This would include a referral for an MRI or X-ray n2, the results of which the chiropractor can use to [\*5] determine "the need for chiropractic care" as *O.C.G.A. § 43-9-12.1* requires.

n2 See note 1 *supra*. Georgia law specifically authorizes chiropractors to perform X-rays for non-therapeutic purposes.

I note that there is a distinction between *referring* for a diagnostic procedure such as MRI and *ordering* such a procedure. The law permits a chiropractor to refer when appropriate. The referral would necessarily be to a diagnostic practice group with a health care professional such as a radiologist trained to read, evaluate, and report on the images. I am informed by the Board that this is the actual practice since enactment of the 1997 amendment. So long as the referral is made under these circumstances, the chiropractor is acting within the scope of current Georgia law.

Therefore, it is my unofficial opinion that pursuant to *O.C.G.A. § 43-9-12.1*, a chiropractor, duly licensed and properly practicing in the state of [\*6] Georgia, can refer a patient for X-rays or magnetic resonance imaging if the referral is needed to determine appropriate chiropractic care or for treatment for or evaluation of conditions which are outside the scope of practice of the chiropractor, assuming the referral is otherwise prudent and proper. This opinion supersedes *1993 Op. Att'y Gen. 93 11*.

### **Legal Topics:**

For related research and practice materials, see the following legal topics:  
TortsNegligenceStandards of CareSpecial CareHighly Skilled Professionals

**GEORGIA BOARD OF CHIROPRACTIC EXAMINERS**  
**Conference Call Board Meeting**  
**April 12, 2012**  
**Professional Licensing Boards**  
**237 Coliseum Drive**  
**Macon, GA 31217**  
**8:00a.m.**

**Discussion on MUA rule-** Dr. Wren made a motion to post the Board Rule with the deletion of c and no additions. Dr. Nelson seconded the motion and it carried unanimously.

**EXECUTIVE SESSION**

Dr. Wren made a motion, Dr. Nelson seconded, and the Board voted to enter into **Executive Session** in accordance with O.C.G.A. §43-1-19(h)(2), 43-11-47(h) and §43-1-2(k) to deliberate on applications and enforcement matters and to receive information on applications, investigative reports and the Assistant Attorney General's report. Voting in favor of the motion were those present who included Ms. Emily Campbell. The Board concluded the **Executive Session** in order to vote on these matters and continue with the public session.

**Exec 1. - Request from Dr. J.A. re: Consent Order modification – Ms. Amy Morelli, Board Attorney** – Ms. Morelli stated Dr. J.A. has not updated information to the Board. The Board recommended to extend the Consent Order deadline until September 30, 2012 and allow an amended Consent Order to be signed and docketed upon receipt.

**Exec 2. - F.C.N. Consent Order – Ms. Amy Morelli, Board Attorney**-The Board recommended they will review the Consent Order to decided if they would recommend to accept the Consent Order.

**OPEN SESSION**

Dr. Mathiak declared the Board back into open session.

**#1 Executive session – Request from Dr. J.A. re: Consent Order modification** – Dr. Wren made a motion to allow an extension regarding the Consent Order modification. Dr. Nelson seconded the motion and motion carried.

**#2 Executive session - F.C.N. Consent Order** – Dr. Wren made a motion to accept the Consent Order for reinstatement. Dr. Nelson seconded the motion and motion carried.

Ms. Campbell made a motion to adjourn, Dr. Wren seconded the motion and it carried unanimously.

The Board meeting adjourned at 8:42 a.m.

Minutes recorded by:

Carol White, Board Support Specialist

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8:00a.m.**

Minutes reviewed and edited by:

Eric Lacefield, Executive Director